United Nations A/63/PV.77

General Assembly

Sixty-third session

Official Records

77th plenary meeting
Monday, 2 March 2009, 3 p.m.
New York

President: Mr. D'Escoto Brockmann ..... (Nicaragua)

In the absence of the President, Mr. Wolfe (Jamaica), Vice-President, took the Chair.

The meeting was called to order at 3.15 p.m.

Agenda item 105 (*continued*)

Appointments to fill vacancies in subsidiary organs and other appointments

(l) Appointment of the judges of the United Nations Appeals Tribunal

Memorandum by the Secretary-General (A/63/701 and Add.1)

The Acting President: As indicated in document A/63/701, the General Assembly is required, during the sixty-third session, to appoint seven judges to the United Nations Appeals Tribunal. The term of office for these judges will be for seven years, beginning on 1 July 2009, subject to the transitional measures set out in article 3(4) of the statute of the United Nations Appeals Tribunal.

As also indicated in document A/63/701, in accordance with article 3(2) of the statute of the Appeals Tribunal, the

> "judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with General Assembly resolution 62/228. No two judges shall be of the same nationality".

The names of the candidates recommended for appointment to the Appeals Tribunal are contained in document A/63/701. Information on the withdrawal of one of the candidates, namely, Judge Marilyn Kaman of the United States of America, is contained in document A/63/701/Add.1.

Article 3(3) of the statute of the Appeals Tribunal requires that, in order to be eligible for appointment, a person shall be of high moral character and possess at least 15 years of judicial experience in the field of administrative law or the equivalent within one or more national jurisdictions.

Article 3(4) of the statute of the Appeals Tribunal further provides that

> "a judge of the Appeals Tribunal shall be appointed for one non-renewable term of seven years. As a transitional measure, three of the judges initially appointed, to be determined by drawing of lots, shall serve three years and may be reappointed to the same Appeals Tribunal for a further non-renewable term of seven years. A current or former judge of the Dispute Tribunal shall not be eligible to serve in the Appeals Tribunal."

Members are therefore informed that Mr. Vinod Boolell of Mauritius, who was appointed this morning to serve on the United Nations Dispute Tribunal, is no longer eligible to be elected to the Appeals Tribunal, and his name has been deleted from the ballot.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A. Corrections will be issued after the end of the session in a consolidated corrigendum.

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In document A/63/701, it is proposed that the General Assembly proceed to appoint the judges of the Appeals Tribunal by way of an election, bearing in mind paragraph 58 of General Assembly resolution 63/253, in which the Assembly invited

> "Member States, when electing judges to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, to take due consideration of geographical distribution and gender balance".

If there is no objection, may I take it that the General Assembly agrees to the proposal?

It was so decided.

The Acting President: The candidates who obtain the largest number of votes and not less than a majority of the votes of those present and voting shall be considered elected and thereby appointed by the Assembly to the Appeals Tribunal.

Also, balloting shall continue, in accordance with the rules of procedure of the General Assembly, until as many candidates as are required for the seats on the Appeals Tribunal to be filled have obtained, in one or more ballots, a majority of votes of the members present and voting.

Once a candidate from a Member State has been elected, other candidates from the same Member State will be barred from standing in any subsequent rounds of balloting for any of the seats of the Appeals Tribunal. In the event that more than one candidate from the same Member State should obtain the required majority in the same round of balloting, only the candidate with the highest number of votes shall be declared elected. If more than one candidate from the same Member State should obtain, in any round of balloting, the required majority and the same number of votes, the President of the General Assembly shall decide between the candidates by the drawing of lots.

May I take it that the Assembly agrees to those procedures?

It was so decided.

The Acting President: Before proceeding further, I would like to inform members that, immediately after the completion of the elections, the drawing of lots will be held to select, from among the judges already elected, the three judges who shall serve three years.

The General Assembly will now proceed to the election of the seven judges of the United Nations Appeals Tribunal. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives are requested to indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. Each representative may vote for not more than seven candidates for appointment to the Appeals Tribunal.

The election will be held in accordance with the relevant rules of procedure of the General Assembly. Therefore, in accordance with rule 92 of the rules of procedure, the election shall be held by secret ballot and there shall be no nominations.

Before we begin the voting process, I should like to remind members that, pursuant to rule 88 of the rules of procedure of the General Assembly, no representative shall interrupt the voting except on a point of order on the actual conduct of the voting.

We shall now begin the voting process. Members are requested to remain seated until all ballots have been collected.

Ballot papers will now be distributed. May I request representatives to indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. May I also remind representatives that they may vote for not more than seven candidates for appointment to the Appeals Tribunal. A ballot will be declared invalid if more than seven names are marked for appointment to the Tribunal.

At the invitation of the President, Mrs. Velichko (Belarus), Mrs. Pérez Alvarez (Cuba), Mr. Belkheir (Libyan Arab Jamahiriya), Ms. van der Horst (Netherlands), Mrs. Nguyen Thi Tu (Viet Nam) and Mr. Al Hadhrami (Yemen) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 3.30 p.m. and resumed at 4.30 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	172
Number of invalid ballots:	0
Number of valid ballots:	172
Abstentions:	0
Number of members voting:	172

Required majority:	87
Number of votes obtained:	
Mr. Kamaljit Singh Garewal (India)	154
Ms. Sophia Adinyira (Ghana)	124
Mr. Mark P. Painter (United States of America)	124
Ms. Inés Weinberg de Roca (Argentina)	122
Mr. Jean Courtial (France)	94
Ms. Rose Boyko (Canada)	92
Mr. Luis María Simón (Uruguay)	87
Mr. Tudor Pantiru (Republic of Moldova/ Romania)	85
Ms. Mary Faherty (Ireland)	82
Mr. Michael Kirby (Australia)	64
Mr. Virgilijus Valančius (Lithuania)	64
Mr. Roy Lewis (United Kingdom of Great Britain and Northern Ireland)	56
Mr. Brian Tamberlin (Australia)	18

Having obtained the required majority and the largest number of votes, the following seven candidates have thus been elected judges of the United Nations Appeals Tribunal for a seven-year term beginning on 1 July 2009: Mr. Kamaljit Singh Garewal of India, Ms. Sophia Adinyira of Ghana, Mr. Mark P. Painter of the United States of America, Ms. Inés Weinberg de Roca of Argentina, Mr. Jean Courtial of France, Ms. Rose Boyko of Canada and Mr. Luis María Simón of Uruguay. I take this opportunity to extend to them the congratulations of the Assembly on their appointment and to thank the tellers for their efforts.

In accordance with article 3(4) of the statute of the Appeals Tribunal, I shall now proceed to the drawing of lots to select, from among the judges already elected, the three judges who shall serve three years.

As members can see, the box is empty. The names of the seven judges will now be put into the box.

I shall now drew three names from the box to select the judges to serve for three years.

The Acting President drew the following three names from the box: Mr. Jean Courtial (France) Mr. Kamaljit Singh Garewal (India) and Mr. Mark P. Painter (United States of America).

The Acting President: Having been drawn by lots, Mr. Jean Courtial of France, Mr. Kamaljit Singh Garewal of India and Mr. Mark P. Painter of the United States of America will serve as judges on the United Nations Appeals Tribunal for a term of three years, beginning on 1 July 2009.

I now call on the representative of Canada.

Mr. Plunkett (Canada): I should like to congratulate all the candidates selected today. Canada strongly supports the new system of administration of justice at the United Nations, and the selections made today are another important step in the realization of that long-overdue reform.

Without fail, all of the judges selected today conform to the highest standards of excellence, and we applaud their selection. However, Canada shares the concerns raised earlier in the day by the representatives of Senegal and France regarding the ability of the New York-based Dispute Tribunal to respond to the needs of French-speaking staff members of the United Nations. Canada would therefore like to add its voice to those urging the Internal Justice Council to consider this in its future nominations for these Tribunals.

The Acting President: The Assembly has thus concluded its consideration of sub-item (l) of agenda item 105.

The meeting rose at 4.35 p.m.